

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

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CALIFORNIA SPORTFISHING
PROTECTION ALLIANCE,

Plaintiff,

v.

KATHLEEN ALLISON, et al.,

Defendants.

No. 2:20-cv-02482 WBS AC

ORDER RE: MOTION FOR LEAVE TO
FILE FIRST AMENDED COMPLAINT

COUNTY OF AMADOR, a public
agency of the State of
California,

Plaintiff,

v.

KATHLEEN ALLISON, et al.,

Defendants.

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This matter is before the court on the motion of
plaintiff County of Amador ("Amador") for leave to file a First
Amended Complaint. (See Mot. (Docket No. 24).) Because the

1 amendment would have the effect of dismissing all claims against
2 the California Department of Corrections and Rehabilitation
3 ("CDCR") as well as Amador's breach of contract claim in its
4 entirety, the parties argue whether the dismissal should be
5 pursuant to Federal Rule of Civil Procedure 15(a) or Federal Rule
6 of Civil Procedure 41(a). The court finds good cause to grant
7 the motion under either standard.

8 Amador has requested that dismissal be without
9 prejudice to reasserting its breach of contract claim against
10 CDCR in state court. (See Mot. at 7, 9-10; Reply at 8 (Docket
11 No. 31).) As defendants have identified no legal prejudice they
12 would suffer if CDCR is dismissed -- agreeing that dismissal is
13 proper -- the court will grant Amador's motion to dismiss CDCR as
14 a defendant. The court also finds good cause allow Amador to
15 amend its complaint so as to dismiss its breach of contract
16 claim. Defendants argue that Amador has unduly delayed the
17 requested dismissal by continuing to propound discovery on CDCR
18 after defendants asserted Eleventh Amendment immunity on CDCR's
19 behalf, such that good cause is lacking. (See Opp. at 2-6
20 (Docket No. 30).) However, with the information before it, the
21 court cannot conclude that Amador's conduct evinces undue delay
22 or bad faith.

23 Defendants ask that the court give defendants Allison
24 and Covello 30 days to respond to Amador's amended complaint. As
25 Amador has not objected to this request, and because the
26 additional time would not appear to prejudice Amador, the court
27 will grant this request. Defendants' request that the court
28 exercise its inherent power to impose monetary sanctions on

1 Amador for its alleged bad faith conduct in this litigation will
2 be denied, however. To the extent defendants seek sanctions
3 related to representations Amador has made to the court during
4 the course of this litigation, they must do so via separate
5 motion. See Fed. R. Civ. P. 11(c)(2). And to the extent that
6 defendants seek sanctions related to Amador's conduct during the
7 course of discovery, such a request would be properly before the
8 magistrate judge assigned to this case, rather than the
9 undersigned.

10 Finally, defendants' request that the court
11 preemptively strike portions of the prayer for relief from
12 Amador's yet-unfiled amended complaint is premature. Such
13 requests are properly made, if at all, via motion under Federal
14 Rule of Civil Procedure 12 once Amador's First Amended Complaint
15 has been filed. See, e.g., Whittlestone, Inc. v. Handi-Craft
16 Co., 618 F.3d 970, 974 (9th Cir. 2010).

17 IT IS THEREFORE ORDERED that Amador's motion to amend
18 the complaint to dismiss CDCR as a defendant in this case and
19 dismiss its breach of contract claim be, and the same hereby is,
20 GRANTED.¹

21 IT IS FURTHER ORDERED that defendants' requests for
22 monetary sanctions and to strike portions of the amended
23 complaint's prayer for relief be, and the same hereby are,
24 DENIED.


25 Defendants shall have 30 days from the date they are
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27 ¹ The court's grant of leave to amend to dismiss CDCR and
28 the breach of contract claim are without prejudice to Amador
filing its breach of contract claim against CDCR in state court.

1 served with Amador's amended complaint to respond thereto.

2 IT IS SO ORDERED.

3 Dated: January 25, 2022


4 WILLIAM B. SHUBB
5 UNITED STATES DISTRICT JUDGE
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